



ORIGINAL

STATE OF WASHINGTON

## WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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October 7, 2002

Honorable Michael K. Powell  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> St. S.W.  
Washington, D.C. 20554

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Federal Communications Commission  
Office of Secretary

Re: **M&L Enterprises, Inc. d/b/a Skyline Telephone Company**  
**Petition for Waiver of Sections 36.611, 36.611 and 69.2(hh) of FCC Rules**  
**CC Docket No. 96-45**  
**Ex-Parte**

Dear Chairman Powell:

We write to request you take immediate action on the May 25, 2001, petition of Skyline Telephone for participation in the federal high-cost fund and the National Exchange Carrier Association's (NECA's) interstate access tariffs and pools. Immediate action on **this** petition is necessary to prevent the cessation of telephone service to approximately 115 households in Washington. Cessation of telephone service will occur when Skyline can no longer meet its loan commitments, something it cannot do without universal service support and interstate access revenues. Cessation of telephone service to these homes (which have only had service for a little over a year) would be a travesty that would jeopardize public safety and leave many households without access to any form of telecommunications other than a five-mile drive to a pay telephone.'

Skyline Telephone began service in the Mt. Hull area of north-central Washington in 2001. Mt. Hull is an area northeast of the town of Tonasket, in Okanogan County. Okanogan County is one of the most mountainous, rural, and economically depressed counties in Washington. Skyline provides service to an area where people never **previously** had telephone service.

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<sup>1</sup> In the absence of universal service support and interstate access revenue, the company would have to charge customers in excess of \$140.00 per month to avoid ceasing service. It is not reasonable to expect that all 115 customers would, or could, pay that amount, and we are convinced that customers will lose service.



Letter to Honorable Michael K. Powell  
 October 7, 2002  
 Page 2

Skyline established an exchange in **an** area where there had never been telephone service and where there was no telephone plant or equipment, notwithstanding that the area had been located for administrative purposes within the study areas of Qwest and Verizon. Because the unserved area had once been situated in two study **areas**, the FCC's Wireline Competition Bureau staff is apparently concerned that providing federal universal service support for this location will have **an** adverse effect upon federal universal service policy. The Bureau staff's concern is misplaced and its decision not to act on the petition for over 16 months is producing **an** effect that **will** be wholly contrary to the universal service goals of the Telecommunications Act of 1996.

The Telecommunications Act of 1996 does not contemplate **the** exclusive ownership or franchise of locations. Moreover, under Washington law, any telecommunications carrier may operate in any location because there can be no exclusive territory. Even if Skyline had wanted to purchase part of the Qwest and Verizon study areas, it could not have done so because neither Qwest nor Verizon had anything to **sell**. This is different from the sale of plant and equipment, which is properly regulated by both the Washington Commission and the FCC. In the case of Mt. Hull, there was no plant or equipment because the area had never been served by Qwest, Verizon or any other carrier.

The Bureau's concern is also misplaced because Skyline's creation of an exchange was not a sale of an exchange from a non-rural carrier to a **m a l** carrier that may **result** in the limitation or denial of universal **service** support under FCC rules. Rather, Skyline constructed and established **an** exchange of its own, without any purchase of **assets** or territory from **Qwest** or Verizon, and installed the first telecommunications plant and equipment the area has ever known.

The Act does require designation of geographic service areas for purposes of determining eligibility for high-cost support. We have designated Skyline as **an** eligible telecommunications carrier (ETC) for the Mt. Hull exchange. We have **never** designated Qwest as **an** ETC for its study area that includes the **Mt.** Hull area. (Qwest receives no high-cost fund support from the FCC to support its service in rural Washington.) Whereas **we** have designated Verizon as an ETC for **the** Tonasket exchange, Verizon altered the boundaries of its Tonasket exchange in 2001, and is not an ETC for **any part** of the Mt. Hull exchange. Because we have designated Skyline an ETC for the Mt. Hull exchange, it should be eligible to receive federal universal service support. (Skyline participates in **the** state universal **service** mechanism, but that **does** not provide sufficient support to maintain the company, just as the state mechanism alone does not provide sufficient support for CenturyTel, Sprint/United, TDS, and Verizon, for example.)

We also understand from Bureau staff that part of its concern **may** be related to **the** recent growth and overall size of the universal service fund. These nationwide concerns should be addressed in **a** general rulemaking, and are not an appropriate reason to delay

Letter to Honorable Michael K. Powell  
October 7, 2002  
Page 3

or deny the benefits of support to approximately 115 households in one of the most mountainous, rural, and economically depressed counties in Washington. If Skyline does not soon receive federal universal service support and interstate access revenues, it will have no choice but to terminate its service to those households.

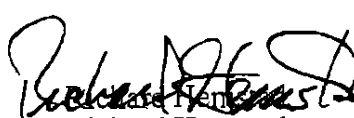
The Skyline petition ~~has languished~~ for over sixteen months. Any more delay may preclude, as a practical matter, effective relief for Skyline. To reiterate, Skyline informs us that in a **short** time it will not be in a position to meet **its** loan commitments. In the interest of the 115 households served by Skyline, we request that you take immediate action and grant the petition.

Thank you for your attention to this matter.

Sincerely,



Chairwoman



Commissioner



Commissioner

Enclosure: Skyline Telephone Profit and Loss Statement

cc: Honorable Patty Murray, United States Senator  
Honorable Maria Cantwell, United States Senator  
Honorable George Nethercutt, Member of Congress